

REMARKS

Please reconsider the application in view of the above amendments and the following remarks.

Disposition of Claims

Claims 1-37 are pending in the application. Restriction to one of the groups of claims I and II was required. Applicant elected group I comprising claims 1-7, 17-13 and 31-37. Claims 8-16 and 24-30 are withdrawn from consideration.

As currently amended, claims 1, 4, 17, 31 and 34 are independent claims. The remaining claims depend directly or indirectly from claims 1, 4, 17, 31 and 34. The amendments to Claims 1, 17 and 31 further describe a quantity of energy available to an end-user from each energy supplier. Applicant has rewritten in independent form claims 4 and 34 such that these claims are now also describe information on the quantity of energy available to the end-user.

Claim Objections

Claim 3 is objected to because in claim 3, line 5 the phrase “typically use” should read – typically used--. Applicant has amended claim 3 in accordance with the Examiner’s suggestion.

Claim 23 is objected to under 35 USC 112 because the phrase “such as” renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. Applicant has amended claim 23 to address this objection.

Rejection(s) under 35 U.S.C. § 102(b)

Claims 1-3, 17-20, 31-33 are rejected under 35 USC §102(b) as being unpatentable over Ehlers et al (U.S. Patent 5,924,486). The Examiner states, referring to claim 1 that Ehlers teaches a method for optimizing energy consumption and energy cost at an end-user facility comprising the steps of gathering information about energy consumption requirements of an end-user, retrieving information on the availability of energy supplied by energy suppliers to end-users, compiling a list of energy usage options, for energy consumption of a particular device within a particular time period, based on energy consumption and energy availability, selecting the energy use option from the compiled list that provides the optimal energy use for a particular device.

Applicant respectfully traverses the Examiner's assertion that Ehlers teaches the step of retrieving information on the availability of energy supplied by energy suppliers to end-users. The Examiner cites column 7, lines 53-55 and column 9, lines 35-49 of Ehlers to support this assertion. Ehlers in column 7, lines 53-55 describe the communication of future energy unit price schedules. This description does not discuss or even mention energy quantities that are available to the end-user. Referring to column 9, lines 35-49, this section discusses energy cost and energy rate tables. Although Ehlers does discuss some of the same concepts of the application, Ehlers does not provide information to the end-user about the availability of energy quantities to the end-user as described in the present application. Applicant discusses the energy quantity availability on page 13, lines 1-15 and illustrates the energy quantity availability in Figure 5. Therefore, Applicant submits that Ehlers does not describe the content and implementation of the present invention.

Rejections(s) under U.S.C. § 103

Claims 4-7, 21-23 and 34 are rejected under 35 USC §103(a) as being unpatentable over Ehlers, further in view of Chasek (U. S. Patent 5,237,507). Referring to claim 4, Examiner asserts that Ehlers teaches retrieving information on each energy resource comprising the types of energy provided and the price of the energy of the particular time range (col. 9, lines 35-49 and col. 11, lines 38-47). However, Ehlers does not explicitly teach retrieving the amount of energy available over a particular time range. The Examiner asserts that a method of optimizing energy consumption whereby a quantity of energy available from energy suppliers during a particular time range is received (col. 4, lines 14-21).

Applicant respectfully traverses the Examiner's assertion that it would have been obvious to receive the quantity of energy available from each of the energy suppliers during a particular time range. As previously discussed, Ehlers does not discuss the quantity of energy that is available to the end-user. Further, Chasek does discuss the amount of energy that each utility has available for export in a particular hour. However, as discussed on column 14, lines 17-19 of Chasek, this information concerning availability of energy is distributed to each pool member. Applicant asserts that pool members are not end-users, but utility providers in a pool. Chasek describes buy and sell decisions are made based on this information and that inter-utility accounts are settled by

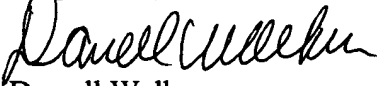
splitting differences between the estimated price and the post-facto computed price. These types of activities occur among utility providers, where resources are exchanged between utility companies. Chasek does not teach, discuss or mention the distribution of available energy quantities to end-users.

Further, Chasek describes a network that attempts to provide optimal energy usage by emulating and electronically simulating free market economic operation by regulated electric utilities and their associated power pool. Ehlers describes a method of optimizing energy usage, and in particular environmental conditions (heating and cooling). Ehlers focuses more on the activities at the end-user. Chasek focuses on pricing and utility provider activities. Therefore, it is not obvious to combine the teachings of Chasek into the Ehlers invention to produce the present invention.

In view of the above, Applicants respectfully submit that none of the art of record (alone or in combination) teaches, discloses or even suggests the invention as recited in each of Applicant's claims. Applicant further submits that all of the pending claims are in condition for allowance. Withdrawal of the rejections and passage to issuance is respectfully requested.

Applicant believes this reply to be fully responsive to all outstanding issues and place this application in condition for allowance. If this belief is incorrect, or other issues arise, do not hesitate to contact the undersigned at the below listed telephone number. Applicant has added two independent claims. However, Applicant has also withdrawn two independent claims from the application. The application as amended has the same number of independent claims as originally filed. As a result, there are no addition independent claims in the application. Therefore, Applicant submits that no addition fee is due. However, if any fee is due, please charge any fees due or any credits due to Deposit Account 09-4447 (Reference docket number AUS920010442US1).

Respectfully Submitted,



Darcell Walker

Reg. No. 34,945

9301 Southwest Freeway, Suite 250

Houston, Texas 77074

713-772-1255

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